IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 19350 of 2007(C)

PETITIONER:

M/S.MARINE INDIA EXPORTS (P) LTD.,
POST BOX NO.886, KOCHANGADI, KOCHI,
RERPRESENTED BY ITS MANAGING DIRECTOR,
S.M.MANSOOR.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

1. ASSISTANT PROVIDENT FUND COMMISSIONER &
   RECOVERY OFFICER, EMPLOYEES PROVIDENT FUND
   ORGANIZATION, SUB REGIONAL OFFICE,
   KALOOR, COCHIN-17.

2. EMPLOYEES PROVIDENT FUNDS APPELLATE
   TRIBUNAL, NEW DELHI, REPRESENTED BY ITS
   REGISTRAR.

BY SHRI.S.GOPAKUMARAN NAIR, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.19350 of 2007

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Dated this the 25th day of June, 2007

J U D G M E N T

The petitioner was proceeded against under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act for imposition of damages for delay in payment of contributions. The petitioner earlier approached this court challenging the orders passed pursuant thereto and the Division Bench, by judgment dated 19.5.2005 permitted the petitioner to file an appeal before the Tribunal within two months and held that if the appeal is not filed within the said time, it is open to the authorities to initiate recovery proceedings. The petitioner did not file appeal within two months. He has his own reasons for not filing the same within the stipulated time. He filed the appeal after five months. The petitioner is now threatened with arrest and detention in

civil prison for non-payment of the amount demanded. The petitioner now seeks time to pay the amounts covered by Ext.P8.

2. The learned Standing Counsel appearing for the Provident Fund Organizaiton opposes the same. He submits that as on today the order has become final because the petitioner has not filed the appeal within the time stipulated by the Division Bench and the Tribunal cannot now condone the delay also, since the delay is beyond the condonable limit under the statute. The petitioner has also not approached the Division Bench for extension of time.

3. After hearing both sides, I feel that the objections raised by the learned Standing Counsel for the Provident Fund Organization are sustainable. However, taking a lenient view, I dispose of this writ petition with the following directions:

The petitioner shall pay an amount of Rs.75,000/- within one month from today. The

balance amount shall be paid in two equal monthly instalments on 24.8.2007 and 24.9.2007. If the petitioner pays the amounts promptly on the dates fixed as above, further proceedings pursuant to Ext.P8 shall be kept in abeyance. However, if the petitioner does not pay the amounts as directed above, it would be open to the 1st respondent to proceed further in accordance with Ext.P8 without having to issue any fresh notice or proceedings in that regard. This is subject to the right of the petitioner to move the Division Bench for appropriate orders for extension of time to file appeal.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.